

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

UNITED STATES OF AMERICA . CRIMINAL ACTION NO.
 . 4:15-CR-152-A-8
V. .
 . Fort Worth, Texas
SHAWN TRAVIS CATHEY . August 7, 2015

TRANSCRIPT OF PROCEEDINGS
(Rearrangement Hearing)
BEFORE THE HONORABLE JOHN MCBRYDE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government: MR. SHAWN SMITH
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produced by computer-aided transcription.

P R O C E E D I N G S

(Commencing, 9:45 a.m.)

THE COURT: I have -- let's see how many -- I think five rearraignments, maybe more than that -- no, five, three in the same case and then two others. I'm going to have one after the other, all of the defendants and the defendants' attorneys come forward, and I'll do some preliminary questioning, and then I'll give all of you some explanations that will be applicable to all of you, and then when I get to the 4:15-CR-152 case, I'll give those three some additional explanations that are applicable to those three.

So we'll start with the CR -- the 4:15-CR-152-A case. After I give you those general explanations applicable to all of you or three of you, then I'll call each one of you back. Everybody will be seated except the very first defendant and the first defendant's attorney. I'll one after the other call you back and ask personal questions and go through a procedure uniquely applicable to each of the defendants one after the other.

We'll start in Case Number 4:15-CR-152-A. It's United States of America versus -- and the first defendant is Angela Cupit. Mr. Smith is here on behalf of the government, and Mr. Stickels is here on behalf of Ms. Cupit.

Ms. Cupit, raise your right hand to be sworn.

(Defendant Cupit sworn by the clerk)

1 THE COURT: Ms. Cupit, do you understand that you're
2 now under oath and that if you answer any of my questions
3 falsely, your answers could later be used against you in a
4 prosecution for perjury or making a false statement?

5 DEFENDANT CUPIT: Yes, sir, I do.

6 THE COURT: And I take it you read, write,
7 understand, and speak the English language proficiently?

8 DEFENDANT CUPIT: Yes, sir.

9 THE COURT: What is your full name?

10 DEFENDANT CUPIT: Angela Wannette Cupit.

11 THE COURT: Spell that middle name for me.

12 DEFENDANT CUPIT: W-A-T-T-E-T-T -- I'm sorry,
13 W-A-T-T-E-N -- hold on just a minute, W-A-N-N-E-T-T-E.
14 Sorry.

15 THE COURT: Okay. Why don't you and Mr. Stickels
16 step back just a minute and we'll come back to you shortly.

17 DEFENDANT CUPIT: Okay.

18 THE COURT: In the same case 4:15-CR-152-A, I'm now
19 calling forward Defendant Phillip Schenck, and he's
20 represented by Christopher Woodward.

21 MR. WOODWARD: Good morning, Your Honor.

22 THE COURT: Good morning.

23 Mr. Schenck, raise your right hand to be sworn.

24 (Defendant Schenck sworn by the clerk)

25 THE COURT: Mr. Schenck, do you understand that

1 you're now under oath and that if you answer any of my
2 questions falsely, your answers could later be used against
3 you in a prosecution for perjury or making a false statement?

4 DEFENDANT SCHENCK: Yes, sir, Your Honor, I do.

5 THE COURT: And I take it you read, write,
6 understand, and speak the English language proficiently?

7 DEFENDANT SCHENCK: Yes, sir, Your Honor, I do.

8 THE COURT: And what is your full name?

9 DEFENDANT SCHENCK: Phillip George Schenck.

10 THE COURT: Okay. Why don't you and your attorney
11 step back just a minute. I'll come back to you shortly.

12 In this same case, 4:15-CR-152-A, I call forward now
13 Defendant Shawn Travis Cathey, and Mr. Biggs is here on behalf
14 of Mr. Cathey.

15 MR. BIGGS: Good morning.

16 THE COURT: Mr. Cathey, raise your right hand to be
17 sworn.

18 (Defendant Cathey sworn by the clerk)

19 THE COURT: Mr. Cathey, do you understand that you're
20 now under oath and that if you answer any of my questions
21 falsely, your answers could later be used against you in a
22 prosecution for perjury or making a false statement?

23 DEFENDANT CATHEY: Yes, Your Honor.

24 THE COURT: And do you read, write, understand, and
25 speak the English language proficiently?

1 DEFENDANT CATHEY: Yes, sir.

2 THE COURT: What is your full name?

3 DEFENDANT CATHEY: Shawn Travis Cathey.

4 THE COURT: Why don't you and Mr. Biggs step back
5 just a minute.

6 Okay. I'm calling forward now in a different case, this
7 is Cause Number 4:15-CR-136-A. It's United States of America
8 versus Nicholas Scott Sides. Mr. Cole is here for the
9 government, and Ms. Brennan is here for the defendant.

10 Mr. Sides, raise your right hand to be sworn.

11 (Defendant Sides sworn by the clerk)

12 THE COURT: Mr. Sides, do you understand that you are
13 now under oath and that if you answer any of my questions
14 falsely, your answers could later be used against you in a
15 prosecution for perjury or making a false statement?

16 DEFENDANT SIDES: Yes, Your Honor.

17 THE COURT: Do you read, write, understand, and speak
18 the English language proficiently?

19 DEFENDANT SIDES: Yes, Your Honor.

20 THE COURT: And what is your full name?

21 DEFENDANT SIDES: Nicholas Scott Sides.

22 THE COURT: Why don't you and Ms. Brennan step back
23 just a minute, and I'll come back to you shortly.

24 The next one is Case Number 4:15-CR-109-A. It's United
25 States of America versus Erik Miltonhall, and Ms. Saleem is

1 here for the government, and Mr. Fleury is here for the
2 defendant.

3 Mr. Miltonhall, raise your right hand to be sworn.

4 (Defendant Miltonhall sworn by the clerk)

5 THE COURT: I didn't hear the answer.

6 DEFENDANT MILTONHALL: I swear, Your Honor.

7 THE COURT: Pardon?

8 DEFENDANT MILTONHALL: I do.

9 THE COURT: Do you understand that you are now under
10 oath and that if you answer any of my questions falsely, your
11 answers could later be used against you in a prosecution for
12 perjury or making a false statement?

13 DEFENDANT MILTONHALL: Yes, Your Honor.

14 THE COURT: Do you read, write, understand, and speak
15 the English language proficiently?

16 DEFENDANT MILTONHALL: Yes, Your Honor.

17 THE COURT: What is your full name?

18 DEFENDANT MILTONHALL: Erik Shawn Miltonhall.

19 THE COURT: S-H-A-W-N, the middle name?

20 DEFENDANT MILTONHALL: Yes, Your Honor.

21 THE COURT: Okay. I have some explanations that I'm
22 going to give to all of the defendants in front of me that are
23 very important bearing in mind your intent to plead guilty to
24 a felony offense. So listen closely. I have before me now
25 Defendants Cupit, Schenck, Cathey, Sides, and Miltonhall.

1 I'll start by giving you some explanations about your
2 constitutional rights, the rights you would have if you were
3 to persist in your plea of not guilty, or if you plead not
4 guilty if you haven't already. I think all of you have.

5 You and each of you may, if you choose, plead not guilty
6 to any offense charged against you or persist in that plea if
7 it already has been made. If you plead not guilty, the
8 Constitution of the United States guarantees to you the
9 following rights:

10 The right to a speedy and public trial by a jury in this
11 district. The right at such a trial for you to confront all
12 of the witnesses, that is, to see, hear, and cross examine all
13 of the witnesses. The right at your trial to testify and
14 present evidence and compel the attendance of witnesses. The
15 right to be represented by counsel, a counsel appointed by the
16 Court for you if necessary at trial and at every other stage
17 of the proceedings.

18 You cannot be compelled to testify, and you are to be
19 protected from compelled self-incrimination. The decision of
20 whether you would testify or not is a matter in which your
21 judgment will control.

22 The United States Government must prove your guilt beyond
23 a reasonable doubt. If you're found guilty, you have the
24 right to appeal your conviction.

25 Defendant Cupit, do you understand you have the

1 constitutional rights I've just described?

2 DEFENDANT CUPIT: Yes, sir, I do.

3 THE COURT: Defendant Schenck, do you understand you
4 have the constitutional rights I just described?

5 DEFENDANT SCHENCK: Yes, sir, Your Honor.

6 THE COURT: Defendant Cathey, do you understand you
7 have the constitutional rights I just described?

8 DEFENDANT CATHEY: Yes, Your Honor.

9 THE COURT: Defendant Sides, do you understand you
10 have the constitutional rights I just described?

11 DEFENDANT SIDES: Yes, Your Honor.

12 THE COURT: Defendant Miltonhall, do you understand
13 you have the constitutional rights I just described?

14 DEFENDANT MILTONHALL: Yes, Your Honor.

15 THE COURT: I want to give all of you some further
16 explanations that are very important bearing in mind your
17 intent to plead guilty. So listen closely.

18 If you plead guilty and if such a plea is accepted by the
19 Court, there will not be a further trial of any kind. So by
20 pleading guilty, you waive the right to a trial as well as
21 those other rights associated with a trial as I've described
22 them.

23 Generally, a defendant who is accused of a crime cannot
24 plead guilty unless he or she is actually guilty of that
25 crime. In federal court, the judge determines the penalty if

1 a defendant is convicted whether it is on a verdict of a jury
2 or on a plea of guilty. Other than the staff of the Court,
3 the Court has not and will not talk to anyone about the facts
4 of your case except here in your presence where you, your
5 attorney, and representatives of the government are all
6 present.

7 If you should be convicted, you and your lawyer each will
8 given an opportunity to present to the Court any pleas for
9 leniency. The penalty will be decided on the basis of the
10 facts set forth in the presentence report and facts heard
11 here.

12 You should never depend or rely upon any statement or
13 promise by anyone, whether connected with a law enforcement
14 agency or the government or anyone else, as to what penalty
15 will be assessed against you. Should you decide to plead
16 guilty, your plea of guilty must not be induced or prompted by
17 any promises, mental pressure, threats, force, coercion, or
18 pressure of any kind. A plea of guilty must be purely
19 voluntary, and you should plead guilty only because you are
20 guilty and for no other reason.

21 Now, the offense to which you propose to plead guilty is a
22 felony. An adjudication of guilt of such an offense may
23 deprive a defendant of valuable rights, such as the right to
24 vote, to hold public office, to serve on a jury, to possess
25 any kind of firearm, or other rights.

1 If convicted on a plea of guilty or a trial, a defendant
2 who is not a citizen of the United States may be removed from
3 the United States, denied citizenship and denied admission to
4 the United States in the future.

5 Defendant Cupit, have you understood the additional
6 explanations I've given you?

7 DEFENDANT CUPIT: Yes, sir.

8 THE COURT: Defendant Schenck, have you understood
9 the additional explanations I've given you?

10 DEFENDANT SCHENCK: Yes, sir, Your Honor.

11 THE COURT: Defendant Cathey, have you understood the
12 additional explanations I've given you?

13 DEFENDANT CATHEY: Yes, Your Honor.

14 THE COURT: Defendant Sides, have you understood the
15 additional definitions I've given you?

16 DEFENDANT SIDES: Yes, Your Honor.

17 THE COURT: Defendant Miltonhall, have you understood
18 the additional explanations I've given you?

19 DEFENDANT MILTONHALL: Yes, Your Honor.

20 THE COURT: Okay. I'm going to give you some
21 additional explanations about the sentencing process. They
22 are important bearing in mind your intent to plead guilty. So
23 listen closely to these explanations.

24 Under the Sentencing Reform Act of 1984, the United States
25 Sentencing Commission has issued guidelines for judges to

1 follow in determining the sentence in a criminal case. Those
2 guidelines have been determined to be advisory only, but they
3 are important because the Court must take the guideline
4 sentencing ranges into account when sentencing a defendant.

5 Now, before I go any further, I'm going to ask each of you
6 a question.

7 Ms. Cupit, have you and your attorney discussed how the
8 sentencing guidelines might apply to your case?

9 DEFENDANT CUPIT: Yes, sir.

10 THE COURT: Defendant Schenck, have you and your
11 attorney discussed how the sentencing guidelines might apply
12 to your case?

13 DEFENDANT SCHENCK: Yes, sir, Your Honor.

14 THE COURT: Defendant Cathey, have you and your
15 attorney discussed how the sentencing guidelines might apply
16 to your case?

17 DEFENDANT CATHEY: Yes, Your Honor.

18 THE COURT: Defendant Sides, have you and your
19 attorney discussed how the sentencing guidelines might apply
20 to your case?

21 DEFENDANT SIDES: Yes, Your Honor.

22 THE COURT: Defendant Miltonhall, have you and your
23 attorney discussed how the sentencing guidelines might apply
24 to your case?

25 DEFENDANT MILTONHALL: Yes, sir.

1 THE COURT: Okay. Going on now with the explanations
2 about the sentencing process, in determining your sentence,
3 the Court is obligated to calculate the sentencing guideline
4 ranges applicable to your case and is required to consider
5 those ranges, possible departures under the sentencing
6 guidelines, and other sentencing factors under 18, United
7 States Code, Section 3553(a).

8 The Court is not bound by facts that are stipulated
9 between the defendant on the one hand and the government on
10 the other. The Court can impose punishment that might
11 disregard stipulated facts or take into account facts not
12 mentioned in the stipulated facts. You might not be permitted
13 to withdraw your plea of guilty in such an event.

14 The Court will not be able to determine the guideline
15 sentence for your case until after the presentence report has
16 been completed and you and the government have had an
17 opportunity to challenge the facts and conclusions reported by
18 the probation officer. After the Court has determined what
19 guidelines apply to a case, the Court has the authority in
20 some circumstances to impose a sentence that is more severe or
21 less severe than the sentence called for by the guidelines.
22 Under some circumstances, the defendant or the government may
23 have the right to appeal any sentence the Court imposes.

24 Parole has been abolished, and if you're sentenced to
25 prison, you will not be released on parole.

1 Now, as soon as this proceeding is over as to each of you
2 this morning, your attorney will go across the hall with a
3 form that's been provided and arrange a time when the
4 probation officer who will be assigned to your case can
5 interview you. Your attorney can be present when that
6 interview occurs if appropriate arrangements are made, and
7 I'll add that the degree of your cooperation with the
8 probation officer can be a factor in the severity of your
9 sentence. That's something you will want to be sure and
10 discuss with your attorney.

11 The purpose of that interview is so the probation officer
12 assigned to your case can obtain from you the information you
13 have relevant to the sentencing process. In addition to
14 obtaining information from you on that subject, the probation
15 officer will obtain information from other sources, such as
16 the prosecutor, the investigating agency, perhaps, your family
17 members, perhaps, your employer or former employers, and maybe
18 other sources.

19 Once the probation officer has enough information to form
20 opinions as to which of the sentencing guidelines apply to
21 your case and what the sentencing ranges are in your case, the
22 probation officer will prepare a written document called a
23 presentence report. In that document, the probation officer
24 will put his or her opinions on those subjects and will recite
25 the facts that he or she relied on in reaching those opinions.

1 You will get a copy of the report applicable to you once it's
2 been prepared and the attorneys in your case each will get a
3 copy. I'll get the original. I rely very heavily on those
4 reports in determining what sentence to impose in a case. So
5 they need to be as complete and as accurate as possible.

6 When you receive your copy of the report applicable to
7 you, be sure you study it over very carefully, and if you
8 think anything in it is incorrect or if you think
9 something's left out that ought to be in it, tell your lawyer
10 because your lawyer has a right to object to the report. If
11 objections are made to the report, I'll rule on those at or
12 before the sentencing hearing.

13 Now, in this case the sentencing hearing as to Defendants
14 Cupit, Schenck and Cathey, your sentencing hearing will be at
15 9 o'clock a.m. on Wednesday, December 2, 2015.

16 In the case of Defendants Sides and Miltonhall, your
17 sentencing hearing will be at 9 o'clock a.m. on November 20,
18 2015.

19 In each instance, the sentencing hearing will be before me
20 in this courtroom. Of course, you and your attorney both will
21 be permitted to speak on your behalf in mitigation at the
22 sentencing hearing. I'll be signing an order today fixing
23 that time and date for sentencing as to each of you, and the
24 attorneys in your case will get a copy of that order, and your
25 attorney will see that you receive a copy.

1 Defendant Cupit, have you understood all the explanations
2 I've given you about the sentencing process?

3 DEFENDANT CUPIT: Yes, sir.

4 THE COURT: Defendant Schenck, have you understood
5 all the explanations I've given you about the sentencing
6 process?

7 DEFENDANT SCHENCK: Yes, sir, Your Honor.

8 THE COURT: Defendant Cathey, have you understood all
9 the explanations I've given you about the sentencing process?

10 DEFENDANT CATHEY: Yes, Your Honor.

11 THE COURT: Defendant Sides, have you understood all
12 the explanations I've given you about the sentencing process?

13 DEFENDANT SIDES: Yes, Your Honor.

14 THE COURT: Defendant Miltonhall, have you understood
15 all the explanations I've given you about the sentencing
16 process?

17 DEFENDANT MILTONHALL: Yes, Your Honor.

18 THE COURT: Okay. The next two things I'm going to
19 review are directed to Defendants Cupit, Schenck, and Cathey.
20 So the three of you listen closely to the things we're going
21 over now.

22 All of you -- the three of you have pleaded guilty to the
23 offense of conspiracy to possess with intent to distribute a
24 controlled substance, and that substance is methamphetamine,
25 in violation of 41, United States Code, Section 846, and 21,

1 United States Code, Sections 841(a)(1) and (b)(1)(B). The
2 last two offense numbers I gave you are the substantive
3 offenses.

4 For the government to cause any one of you to be convicted
5 of that offense, the government would have to prove to a
6 jury -- let's assume you don't plead guilty. You persist in
7 your plea of not guilty. If that were to be the case, for you
8 to be convicted, the government would have to prove to a jury
9 beyond a reasonable doubt each of the things I'm getting ready
10 to go over, and this proof would have to be made as to you,
11 each of you, for you to be convicted.

12 The first thing is that two or more persons directly or
13 indirectly reached an agreement to possess with intent to
14 distribute a controlled substance as charged in the
15 indictment.

16 And, second, that the defendant -- of course, that proof
17 would have to be made separately as to each of you -- knew of
18 the unlawful purpose of the agreement.

19 Third, that the defendant joined in the agreement
20 willfully, that is, with the intent to further its unlawful
21 purpose.

22 And the fourth thing is that the overall scope of the
23 conspiracy involved at least 50 grams of a mixture or
24 substance containing a detectable amount of methamphetamine, a
25 Schedule II controlled substance.

1 Defendant Cupit, do understand those are the things the
2 government would have to prove as to you to cause you to be
3 convicted of the offense charged by Count 1 of the indictment
4 in your case?

5 DEFENDANT CUPIT: Yes, Your Honor.

6 THE COURT: And do you admit that those facts existed
7 to you in your case?

8 DEFENDANT CUPIT: Yes, sir.

9 THE COURT: Defendant Schenck, do you understand the
10 things I've just gone over are the things the government would
11 have to prove to a jury beyond a reasonable doubt to cause you
12 to be convicted, and that proof would have to be made as to
13 you to cause you to be convicted of the offense charged by the
14 indictment in this case if you were to persist in your plea of
15 not guilty?

16 DEFENDANT SCHENCK: Yes, sir, Your Honor.

17 THE COURT: And do you admit that those facts exist
18 as to you?

19 DEFENDANT SCHENCK: Yes, Your Honor.

20 THE COURT: Defendant Cathey, do you understand that
21 if you were to persist in your plea of not guilty, for you to
22 be convicted of the offense charged by Count 11 of the
23 indictment in this case, the government would have to prove to
24 a jury beyond a reasonable doubt each of the things that I've
25 just gone over and listed?

1 DEFENDANT CATHEY: Yes, Your Honor.

2 THE COURT: And do you admit that all of those
3 factors exist as to you?

4 DEFENDANT CATHEY: Yes, Your Honor.

5 THE COURT: The next thing I'm going to review with
6 Defendants Cupit, Schenck and Cathey, are the penalties they
7 are subjecting themselves to by a plea of guilty to the
8 offense charged by Count 1 of the indictment, that is,
9 conspiracy to possess with intent to distribute a controlled
10 substance, that is, methamphetamine. And those penalties are:

11 A term of imprisonment that would have to be at least five
12 years and could be as much as 40 years, plus, payment of a
13 fine of \$5 million, plus, service of a term supervised release
14 that would have to be at least four years and could be as much
15 as life, plus, payment of a fine of \$100 -- not a fine, a
16 special assessment of \$100, not a fine.

17 Plus, if the defendant were to violate any condition of
18 his supervised release that I mentioned a minute ago, it could
19 be revoked, and the defendant could be sent back to prison and
20 could be required to serve another term of imprisonment that
21 could be as long as the defendant's term of supervised
22 release.

23 Defendant Cupit, do you understand you're subjecting
24 yourself to all those penalties and punishments if you plead
25 guilty to the offense charged by Count 1 of the indictment?

1 DEFENDANT CUPIT: Yes, sir, I do.

2 THE COURT: Defendant Schenck, do you understand that
3 you are subjecting yourself to all those penalties and
4 punishments if you plead guilty to the offense charged by
5 Count 1 of the indictment?

6 DEFENDANT SCHENCK: Yes, sir, Your Honor.

7 THE COURT: Defendant Cathey, do you understand that
8 you're subjecting yourself to all those penalties and
9 punishments if you plead guilty to the offense charged by
10 Count 1 of the indictment?

11 DEFENDANT CATHEY: Yes, Your Honor.

12 THE COURT: Okay. I'm going to have all of you take
13 your seats now except Defendant Cupit and Mr. Stickels. We'll
14 be back to you in a minute, and Mr. Stickels and his client
15 will come up to the podium.

16 (Proceedings for Defendants Cupit and Schenck continue but
17 not transcribed at this time. Proceedings for Defendant
18 Cathey continue as follows:)

19 THE COURT: Okay. I'm calling back Shawn Travis
20 Cathey in this same case, 4:15-CR-152-A, and he's back with
21 Mr. Biggs, his attorney.

22 Let me get some personal information about you,
23 Mr. Cathey --

24 (Interruption in proceedings)

25 THE COURT: I've got the sneezies.

1 What is your age and date of birth?

2 DEFENDANT CATHEY: I'm 44 years old, and I was born
3 December 20, 1970.

4 THE COURT: Okay. And how far did you go in school?

5 DEFENDANT CATHEY: I completed up to the 9th Grade,
6 10th Grade.

7 THE COURT: Where did you go to school?

8 DEFENDANT CATHEY: Trinity High School in Euless,
9 Texas.

10 THE COURT: What kind of work have you been doing?

11 DEFENDANT CATHEY: I do construction, sir.

12 THE COURT: What?

13 DEFENDANT CATHEY: Construction.

14 THE COURT: Okay. Are you under the care of a
15 physician or psychiatrist or anything?

16 DEFENDANT CATHEY: No, sir.

17 THE COURT: Have you been at any time in the last six
18 months?

19 DEFENDANT CATHEY: No, sir.

20 THE COURT: Have you ever been hospitalized or
21 treated for narcotics addiction or alcoholism?

22 DEFENDANT CATHEY: No, Your Honor.

23 THE COURT: As far as you're concerned, do you suffer
24 from any kind of emotional or mental disability or problem?

25 DEFENDANT CATHEY: No, sir.

1 THE COURT: Are you now under the influence of
2 alcohol or any kind of drug?

3 DEFENDANT CATHEY: No, Your Honor.

4 THE COURT: Do you consider that you're of sound
5 mind, so you know exactly what you're doing, and that is
6 you're here today to plead guilty to the offense charged by
7 the indictment in this case, and that's the offense of
8 conspiracy to possess with intent to distribute a controlled
9 substance? Do you understand that's why you're here today,
10 and you feel like you're fully competent to do that?

11 DEFENDANT CATHEY: Yes, Your Honor.

12 THE COURT: Do you have any reason to think,
13 Mr. Biggs, that your client is not fully competent to enter
14 such a plea?

15 MR. BIGGS: No, Your Honor.

16 THE COURT: Or that the entry of such a plea would
17 not be a knowing and voluntary -- would not be knowing and
18 voluntary on the part of your client?

19 DEFENDANT CATHEY: No, Your Honor.

20 THE COURT: You have received, Mr. Cathey, a copy of
21 the indictment in this case. You've read it and understand
22 exactly what you're charged with?

23 DEFENDANT CATHEY: Yes, Your Honor.

24 THE COURT: Unless there is a waiver of the reading
25 of it, I'm going to have it read aloud at this time.

1 MR. BIGGS: We'll waive the reading of the
2 indictment, Your Honor.

3 THE COURT: I have two documents that have been
4 handed up to me, Mr. Cathey, that appear to bear your
5 signature. One of them is called a factual resume, and the
6 other is called a proffer interview conditions. I'll hold
7 them both up so you can see them.

8 Do you see those documents?

9 DEFENDANT CATHEY: Yes, Your Honor.

10 THE COURT: Did you sign both of them?

11 DEFENDANT CATHEY: Yes, Your Honor.

12 THE COURT: And did you read both of them before you
13 signed them?

14 DEFENDANT CATHEY: Yes, Your Honor.

15 THE COURT: And did you discuss each one with your
16 attorney before you signed it to be sure you understood the
17 legal meaning of everything in it?

18 DEFENDANT CATHEY: Yes, Your Honor.

19 THE COURT: And did you understand what your attorney
20 told you?

21 DEFENDANT CATHEY: Yes, Your Honor.

22 THE COURT: Okay. I'm going to have this proffer
23 interview conditions considered to be a part of the record of
24 this case. It's been marked Government's Exhibit 1. So we'll
25 just consider that a part of the record of this hearing.

1 Have you been satisfied with Mr. Biggs as your attorney?

2 DEFENDANT CATHEY: Yes, Your Honor.

3 THE COURT: Do you have any complaint whatsoever with
4 anything he's done or failed to do during the time he's been
5 serving as your attorney?

6 DEFENDANT CATHEY: No, sir.

7 THE COURT: And I take it, Mr. Biggs, your client's
8 willingness to plead guilty without a plea agreement is
9 because it's just a one count -- he's just charged in the one
10 count?

11 MR. BIGGS: Yes, that's correct, Your Honor.

12 THE COURT: Mr. Cathey, do you have any deal,
13 understanding, or agreement, either directly or through your
14 attorney, with the government?

15 MR. BIGGS: Your Honor, may I have a moment?

16 THE COURT: Let me qualify that before you --

17 MR. BIGGS: Yes, I think that would be helpful.

18 THE COURT: -- before you confer with him.

19 Let me start over on that question because I know you have
20 this proffer interview conditions agreement. Other than this
21 proffer interview conditions agreement that we talked about a
22 minute ago that's marked Government's Exhibit 1, do you have
23 any deal, understanding, or agreement, either directly or
24 through your attorney, with the government?

25 DEFENDANT CATHEY: No, sir.

1 THE COURT: Has anyone made any promise or assurance
2 to you of any kind in an effort to induce you to enter a plea
3 of guilty in this case?

4 DEFENDANT CATHEY: No, Your Honor.

5 THE COURT: Has anyone mentally, physically, or in
6 any other way attempted in any way to force you to plead
7 guilty in this case?

8 DEFENDANT CATHEY: No, Your Honor.

9 THE COURT: Do you understand that if you plead
10 guilty and if that plea is accepted by the Court, you will be
11 adjudged guilty of the offense of conspiracy to possess with
12 intent to distribute a controlled substance, and your
13 punishment will be assessed somewhere within the range of
14 punishment provided by statute and your sentence will be
15 within the range provided by statute? Do you understand those
16 things?

17 DEFENDANT CATHEY: Yes, Your Honor.

18 THE COURT: And do you understand that if you plead
19 guilty and then end up getting a sentence that's more severe
20 than you hoped it would be, you will still be bound by your
21 plea of guilty?

22 DEFENDANT CATHEY: Yes, sir.

23 THE COURT: With the knowledge you now have, how do
24 you plead to the offense charged by the indictment in this
25 case, guilty or not guilty?

1 DEFENDANT CATHEY: Guilty, sir.

2 THE COURT: Is that consistent with your advice to
3 the defendant, Mr. Biggs?

4 MR. BIGGS: Yes, it is, Your Honor.

5 THE COURT: Okay. I'll accept that plea on the
6 condition that there is a factual basis to support it, and at
7 this time I'll ask that the stipulated facts be read aloud.

8 MR. SMITH: Since approximately January 2015, Shawn
9 Travis Cathey distributed methamphetamine to Celeste Blair and
10 others, usually, on consignment. In turn, Shawn Cathey
11 received methamphetamine from Rachel Adams. In this manner,
12 Shawn Travis Cathey, Celeste Monet Blair and Rachel Adams
13 conspired with each other and others to possess with intent to
14 distribute more than 50 grams of methamphetamine.

15 THE COURT: You've heard the stipulated facts read.
16 Are those facts all true, Mr. Cathey?

17 DEFENDANT CATHEY: Yes, Your Honor.

18 THE COURT: Are they consistent with your
19 understanding of the true facts, Mr. Biggs?

20 MR. BIGGS: Yes, they are, Your Honor.

21 THE COURT: Okay. I'll order that the factual resume
22 be filed.

23 The Court finds in the case of United States of America
24 versus Shawn Travis Cathey, that the defendant is fully
25 competent and capable of entering an informed plea and that

1 his plea of guilty to the offense charged by the indictment in
2 this case is a knowing and voluntary plea supported by an
3 independent basis in fact containing each of the essential
4 elements of that offense and that such plea did not result
5 from force, threats, or promises. His plea of guilty is,
6 therefore, accepted, and he is now adjudged guilty of the
7 offense charged by the indictment in this case.

8 Okay. The defendant is remanded to custody, and the
9 attorneys are excused.

10 (End of proceedings, 10:30 a.m.)

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20 CERTIFICATE

21 I certify that the foregoing is a correct transcript from
22 the record of proceedings in the above-entitled matter, and
23 that the transcript was prepared by me and under my
supervision.

24 s/ Ana P. Warren
Ana P. Warren, CSR #2302
25 U.S. District Court Reporter

March 4, 2016
Date